

## **Draft Amendments to Civil Service Rule 8-3: Technical Complaints and Rule 9-1: Definitions**

Revision A, January 23, 2004

Added text is double-underlined. Deleted text is ~~struck-through~~.

The draft amendments clarify that the technical qualification complaint process is open to non-employees as well as employees.

### 1 8-3 Technical Complaints

#### 2 8-3.1 Complaint Regarding Technical Decision Authorized

3 An authorized individual, appointing authority, or organization may file a technical  
4 complaint with the department of civil service, as provided in this rule and the  
5 regulations.

6 **(a) Technical classification complaint.** An employee directly affected by a  
7 technical classification decision, or the employee's appointing authority, may file  
8 a technical classification complaint.

9 **(b) Technical qualification complaint.** ~~An employee~~ person directly affected by a  
10 technical qualification decision, ~~or the employee's~~ an appointing authority that  
11 requested a technical qualification decision, may file a technical qualification  
12 complaint.

13 **(c) Technical disbursement complaint.** An interested party authorized in  
14 rule 7-6.4 [Complaint Regarding Technical Decision] may file a technical disbursement  
15 complaint.

16 **(d) Technical appointment complaint.**

17 **(1) After revocation of appointment.** If, as the result of an audit, the  
18 department of civil service revokes the appointment of an employee, the  
19 employee or the employee's appointing authority may file a technical  
20 appointment complaint.

(2) **After denial of appointment.** An unsuccessful candidate who alleges that the selection, appointment, or certification process for the position violated a civil service rule or regulation may file a technical appointment complaint.

8-3.2 Time Limits *[No change]*

8-3.3 Civil Service Technical Review *[No change]*

8-3.4 Further Appeal to Commission Authorized *[No change]*

8-3.5 Effective Date of Decision of Technical Review Officer  
*[No change]*

8-3.6 Exclusive Technical Appointment Reviews *[No change]*

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## 9-1 Definitions

Unless the context clearly provides otherwise, the following terms in the civil service rules and regulations are defined as follows:

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Party

**Party** means any of the following persons or organizations:

(a) **Party**, in a grievance appeal, means any of the following:

(1) The employee who filed the grievance.

(2) The appointing authority that issued the final grievance decision being appealed.

(b) **Party**, in a technical classification review, means any of the following:

(1) An employee whose classification is directly affected by a technical classification decision.

(2) The appointing authority of an employee in subdivision (b)(1).

(3) Any other interested person with a demonstrable special interest in the technical classification decision that is granted permission to participate in the review.

(c) **Party**, in a technical qualification review, means any of the following:

- 1       (1) ~~An employee~~ person whose qualifications and fitness for a position in the  
2       classified service is directly affected by a technical qualification decision.
- 3       (2) An ~~The~~ appointing authority ~~of an employee in subdivision (c)(1)~~ that  
4       requested a technical qualification decision.
- 5       (3) Any other interested person with a demonstrable special interest in the  
6       technical qualification decision that is granted permission to participate in the  
7       review.
- 8       (d) *[No change]*.
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## **Draft Amendments to Civil Service Rule 1-8: Prohibited Discrimination and Rule 9-1: Definitions**

Revision A, January 23, 2004

Added text is double-underlined. Deleted text is ~~struck-through~~.

The draft amendments add “**sexual orientation**” to the list of prohibited bases of discrimination.

### 1 1-8 Prohibited Discrimination

#### 2 1-8.1 Prohibited Discrimination

3 The department of civil service or an appointing authority shall not do any of the  
4 following:

- 5 (a) Fail or refuse to hire, recruit, or promote; demote; discharge; or otherwise  
6 discriminate against a person with respect to employment, compensation, or a  
7 term, condition, or privilege of employment, because of religion, race, color,  
8 national origin, age, sex, sexual orientation, height, weight, marital status,  
9 partisan considerations, or a disability or genetic information that is unrelated to  
10 the person’s ability to perform the duties of a particular job or position.
- 11 (b) Limit, segregate, or classify an employee or applicant for employment in a way  
12 that deprives or tends to deprive the employee or applicant of an employment  
13 opportunity or otherwise adversely affects the status of an employee or applicant  
14 because of religion, race, color, national origin, age, sex, sexual orientation,  
15 height, weight, marital status, partisan considerations, or a disability or genetic  
16 information that is unrelated to the person’s ability to perform the duties of a  
17 particular job or position.

#### 18 1-8.2 Accommodation of Disabilities

19 The department of civil service and appointing authorities shall accommodate a  
20 person with a disability as provided in the civil service rules and regulations.

### 1-8.3 Discriminatory Harassment

(a) **Discriminatory harassment prohibited.** Discriminatory harassment is prohibited in the classified service. A classified employee who engages in discriminatory harassment may be disciplined by the appointing authority, up to and including dismissal.

(b) **Requirement to report.** A classified employee who is subjected to discriminatory harassment or who observes discriminatory harassment in the workplace shall report the discriminatory harassment to the appointing authority through reporting procedures established by the appointing authority.

(c) **Regulations and action.** The state personnel director shall issue regulations governing reporting and investigating discriminatory harassment. The regulations must require each appointing authority to make good faith efforts to eliminate and prevent discriminatory harassment in the workplace. The regulations must require the following minimum actions by each appointing authority:

(1) Each appointing authority shall assign one or more investigators to investigate reports of discriminatory harassment by employees.

(2) Each appointing authority shall investigate all reports of discriminatory harassment.

(3) If a report of discriminatory harassment is substantiated or there is reasonable cause to believe that an allegation of discriminatory harassment is true, the appointing authority shall take appropriate corrective and remedial action.

### 1-8.4 Bona Fide Occupational Qualification

An appointing authority may establish a bona fide occupational qualification based on religion, national origin, sex, [sexual orientation](#), age, marital status, height, or weight, only if it is consistent with applicable law and is approved in advance by the state personnel director.

### 1-8.5 Elimination of Present Effects of Past Discrimination

An appointing authority may adopt and carry out a plan to eliminate the present effects of past discriminatory practices with respect to religion, race, color, national origin, sex, [sexual orientation](#), or disability if the plan is approved in advance by the state personnel director and is otherwise consistent with applicable law.

## 1-8.6 Seniority and Merit System

Notwithstanding any other provision of these rules, the department of civil service or an appointing authority may apply different standards for compensation or different terms, conditions, or privileges of employment under a bona fide seniority or merit system approved by the civil service commission or the state personnel director.

## 1-8.7 Departmental Work Rules

This rule 1-8 does not limit the authority of an appointing authority to issue a work rule that regulates verbal or physical conduct or communication that does not rise to the level of prohibited discrimination or discriminatory harassment as defined in these rules.

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# 9-1 Definitions

Unless the context clearly provides otherwise, the following terms in the civil service rules and regulations are defined as follows:

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## Discriminatory Harassment

***Discriminatory harassment*** means unwelcome advances, requests for favors, and other verbal or physical conduct or communication based on religion, race, color, national origin, age, sex, [sexual orientation](#), height, weight, marital status, partisan considerations, disability, or genetic information under any of the following conditions:

- (a) Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment.
  - (b) Submission to or rejection of the conduct or communication by a person is used as a factor in decisions affecting the person's employment.
  - (c) The conduct or communication has the purpose or effect of substantially interfering with a person's employment or creating an intimidating, hostile, or offensive employment environment.
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